

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Campos	Team: Squad #16	CCRB Case #: 201704107	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/24/2017 9:51 PM	Location of Incident: In front of 613 11th Avenue	Precinct: 18	18 Mo. SOL 11/24/2018	EO SOL 11/24/2018	
Date/Time CV Reported Wed, 05/24/2017 10:04 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 05/24/2017 10:04 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jason Brown	30226	950110	MTN PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Katherine Osipowich	26335	961046	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jason Brown	Force: Police Officer Jason Brown used physical force against § 87(2)(b)	
B.POM Jason Brown	Discourtesy: Police Officer Jason Brown spoke discourteously to § 87(2)(b)	
C.POM Jason Brown	Abuse: Police Officer Jason Brown refused to provide his name and shield number to § 87(2)(b)	

Case Summary

On May 24, 2017, § 87(2)(b) filed this complaint on behalf of himself with the CCRB via telephone.

At approximately 4:20 PM on May 24, 2017, § 87(2)(b) called 911 in order to report an issue with an auto shop at 613 11th Avenue in Manhattan, in which his vehicle was not returned to him after being worked on. After calling 911, § 87(2)(b) waited in front of the auto shop for police assistance for approximately five hours.

At approximately 9:51 PM, Police Officer Jason Brown and Police Officer Katherine Osipowich of the Midtown North Precinct arrived on the scene and spoke to § 87(2)(b) in front of the auto shop. § 87(2)(b) explained his issues to the officers, and the officers explained that his issue was civil in nature, and they could not assist him in obtaining his vehicle. § 87(2)(b) asked the officers for any report which would document his attempt to pay for his vehicle, and the officers explained that they could not assist him. § 87(2)(b) was frustrated because he had waited so long for nothing. The officers explained that he had been waiting because it had been an extremely busy day for them. § 87(2)(b) told the officers that they had not been so busy and as he spoke he gestured with his hands. PO Brown used his right hand to slap § 87(2)(b)'s right hand away (**Allegation A**), and stated, "Get your fucking hand out of my face," (**Allegation B**). PO Brown pushed § 87(2)(b)'s chest, causing him to step two to three feet backward (**Allegation A**, continued). As PO Brown and PO Osipowich were walking towards their RMP, § 87(2)(b) followed and stated, "I need your name and shield number." PO Brown did not turn around and mumbled something that § 87(2)(b) did not hear. § 87(2)(b) stated, "I didn't hear you, I need your name and shield number." PO Brown turned to face § 87(2)(b) and stated, "What, do you have a third grade reading level?" § 87(2)(b) did not obtain PO Brown's name or shield number (**Allegation C**). PO Brown and PO Osipowich entered their RMP and began to drive away. As they left, § 87(2)(b) copied the officers' RMP number on a piece of paper.

This case has video evidence. A SnagIt copy of video 201704107_20170706_1319_DM has been placed below (Board Review 01). Please note that the full video can be found at Board Review 02 and the transcription of the video can be found at Board Review 03.



201704107_20170820_1448_DM.mp4

This case is 98 days old. This case passed the 90 day benchmark due to delays caused because § 87(2)(b) provided an incorrect date of incident. The correct date of incident was determined on June 21, 2017, 28 days into the investigation. When the new date was discovered, new documents were requested to identify the subject officer.

Mediation, Civil and Criminal Histories

- When he provided his sworn statement § 87(2)(b) was unsure if he wished to resolve his complaint through mediation or investigation, but he indicated that he wanted

the subject officer to be disciplined (Board Review 04). In a follow up call, § 87(2)(b) rejected mediation (Board Review 05).

- On August 28, 2017, the Comptroller's Office confirmed that no Notice of Claim has been filed by or on behalf of § 87(2)(b) regarding this incident (Board Review 12).
- § 87(2)(c)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first complaint with the CCRB. § 87(2)(b)
- PO Brown has been a member of service for six years. There are three prior allegations against PO Brown stemming from one case. There are no substantiated allegations against PO Brown.
 - In CCRB case 201308721, a physical force allegation against PO Brown was exonerated.
 - § 87(2)(b)
 - In CCRB case 201705038, a physical force allegation is pleaded against PO Brown. The case was closed pending litigation.

Potential Issues

- In his initial complaint § 87(2)(b) stated that PO Brown cursed at him. However, § 87(2)(b) could not recall the exact profanity used. In a phone statement § 87(2)(b) stated that he thought PO Brown stated, "What the fuck are you doing man?" During his sworn statement, § 87(2)(b) stated that he thought that PO Brown stated, "Get your fucking hand out of my face."

Findings and Recommendations

Allegation A—Force: Police Officer Jason Brown used physical force against § 87(2)(b)

§ 87(2)(b) testified that PO Brown used his right hand to smack the back of § 87(2)(b)'s hand and told him to get his hands out of his face. After which, PO Brown used his right hand to push § 87(2)(b)'s chest. § 87(2)(b) was moved back two to three steps by the push, but he did not fall down. § 87(2)(b) stated that he did not place his hands in PO Brown's face (Board Review 04).

PO Brown testified that he did not recall smacking § 87(2)(b)'s hand or pushing his chest. PO Brown stated that he made physical contact with § 87(2)(b) one time during the incident. § 87(2)(b) was upset because of his issue involving the auto shop, and the fact that the officers could not assist him. § 87(2)(b) began screaming at the officers, and PO Brown began screaming back. PO Brown and § 87(2)(b) moved closer until they were standing approximately one foot away. PO Brown felt that § 87(2)(b) was too close to him, and PO Brown opened his palms and put them forward at his chest level. PO Brown touched § 87(2)(b).

§ 87(2)(b) s chest in order to maintain a distance, but did not push him away. PO Brown then told § 87(2)(b) that the officers had to go and they began to leave (Board Review 09).

PO Osipowich testified that she did not recall if PO Brown slapped § 87(2)(b) s hand or pushed § 87(2)(b) s chest (Board Review 10).

§ 87(2)(b), located at 617 11th Avenue in Manhattan, provided video 201704107_20170706_1319_DM (Board Review 02). The SnagIt portion (Board Review 01) depicts § 87(2)(b) speaking with PO Brown and PO Osipowich during the incident. Please note that the video quality is low; therefore the SnagIt and full video should not be watched on a full screen setting, as the footage can become less clear. The video does not depict PO Brown slap § 87(2)(b) s wrist at any point. Just before PO Brown and PO Osipowich begin to walk away, § 87(2)(b) takes a step toward PO Brown and then PO Brown steps toward § 87(2)(b) and places an arm out towards him. Due to the video quality, it is not clear if PO Brown makes contact with § 87(2)(b). However, the bodies are seen clearly enough to see that § 87(2)(b) is not pushed backward. PO Brown puts his hand down and § 87(2)(b) takes a step back as the officers walk away.

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Allegation B—Discourtesy: Police Officer Jason Brown spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that after PO Brown slapped his hand, he stated, “Get your fucking hand out of my face.” As noted above, § 87(2)(b) stated that he was unsure about the exact profanity used, but recalled the quote above (Board Review 04). In a phone statement on June 1, 2017, § 87(2)(b) stated that PO Brown stated, “What the fuck are you doing man?” § 87(2)(b) also indicated during the phone statement that he was unsure of the exact profanity PO Brown used but recalled the quote above (Board Review 08).

PO Brown testified that he did not recall stating, “Get your fucking hand out of my face,” to § 87(2)(b) and did not recall using any profanity during the incident (Board Review 09).

PO Osipowich did not recall if PO Brown stated, “Get your fucking hand out of my face,” to § 87(2)(b) and was unaware of PO Brown using profanity during the incident (Board Review 10).

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Allegation C—Abuse of Authority: Police Officer Jason Brown refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) testified that as the officers began to leave he followed and stated, “I need your name and shield number,” to PO Brown. PO Brown did not turn around and mumbled something that § 87(2)(b) did not hear. § 87(2)(b) stated, “I didn’t hear you, I need your name and shield number.” PO Brown turned to face § 87(2)(b) and stated, “What, do you have a third grade reading level?” and continued to walk away. PO Brown did not provide his name or shield number, and the officers entered their vehicle and drove away from the incident location. As the officers left, § 87(2)(b) wrote the officers’ RMP number on a piece of paper (Board Review 04).

PO Brown testified that § 87(2)(b) asked for his name or his shield number three times during the incident; PO Brown did not recall if § 87(2)(b) asked for his name or his shield number specifically but recalled that he asked for one of the two. PO Brown could not recall at what point during the incident § 87(2)(b) made the first two requests, but stated that he loudly and clearly stated his last name and his shield number. PO Brown did not recall if § 87(2)(b) wrote down his information or made any statements that confirmed he had successfully obtained the name and shield number.

PO Brown testified that § 87(2)(b) requested his name or shield number a third time, after he stated that he and PO Osipowich had to go. PO Brown stated his name and shield number clearly and loudly. § 87(2)(b) asked, “What is it?” multiple times. PO Brown repeated his name and shield number multiple times. After saying his name and shield number multiple times, PO Brown assumed that § 87(2)(b) had successfully obtained the information because he provided the information multiple times and because his last name was short. The officers began to leave. § 87(2)(b) began to follow the officers to their vehicle, and asked PO Brown for his first name. PO Brown did not provide § 87(2)(b) with his first name, and left the incident location. PO Brown thought that § 87(2)(b) was asking for his first name because he already had his last name. PO Brown did not recall stating “What, do you have a third grade reading level?” in response to § 87(2)(b)’s request for a name and shield number, and did not refuse to provide his name and shield number at any point (Board Review 09).

PO Osipowich testified that § 87(2)(b) asked for her and PO Brown’s names and shield numbers. Both officers stated their name and shield numbers to § 87(2)(b). PO Osipowich recalled that at some point § 87(2)(b) wrote something on a piece of paper but she did not recall if he did so directly after the officers provided their names verbally. PO Osipowich was unaware if he was writing the officers’ name and shield numbers. PO Osipowich did not recall PO Brown stating “What, do you have a third grade reading level?” in response to § 87(2)(b)’s request for a name and shield number (Board Review 10).

NYPD Patrol Guide Procedure 203-09 instructs officers to courteously and clearly provide their information, including their names and shield numbers, to any person who requests them to do so, and to allow the person ample time to note the information (Board Review 11).

It is undisputed that § 87(2)(b) asked PO Brown for his name or his shield number. However, key facts in regards to PO Brown's response remain in dispute. § 87(2)(b)'s allegation that PO Brown did not provide his information clearly and then ignored his request disputes PO Brown's testimony in which he provided his name and shield number multiple times.

§ 87(2)(g)

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Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date